



MACDL

Massachusetts Association of
Criminal Defense Lawyers



Opposition to Proposed Changes to Laws Regarding Pre-Trial Detention

The Massachusetts Association of Criminal Defense Lawyers (MACDL) formally opposes H.66 “An Act to Protect the Commonwealth.” The proposed bill vastly and unnecessarily expands G.L. c. 276 § 58A and other laws regarding pre-trial detention. The proposed legislation would further unjustly incarcerate a disproportionate number of our citizens on a pre-trial basis, without affording them an opportunity to post bail, and before granting them a meaningful opportunity to refute the accusations against them. The proposed legislation strikes at the heart of Constitutional principles of the presumption of innocence, and due process of law.

Massachusetts laws already provide judges with wide and significant discretion to incarcerate persons on a pre-trial basis on risk of flight, and/or danger to the community. There are already too many of us held on this basis. The idea that judges in the Commonwealth are unable to incarcerate persons who are charged with serious crimes is simply fictitious. It is completely unnecessary to make our laws regarding pre-trial detention more strict or punitive. These proposed changes would only lead to further unjust incarceration of innocent persons, who are our family, friends, and neighbors.

There are currently thousands of people accused of crimes and held on a pre-trial basis. It inherently separates parents from children, and exacerbates the unintended consequences of mass incarceration in our society, and its disparate impact on racial minorities and their communities. Further expansion of these laws is not only unwarranted, but also contrary to the concepts of liberty, justice, and fairness guaranteed by our State and Federal Constitutions.

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